REMARKS

Reconsideration of the instant application is respectfully requested in view of the foregoing amendments and the following comments. Claims 1-11 are in this application with claims 1, 3, 4, 8 and 9 amended and new claims 10 and 11 added herein.

In the office action, claims 1-3 are rejected under 35 U.S.C. § 102(e) as anticipated by Lee (U.S. 6,539,225). Claim 4 is rejected under 35 U.S.C. § 103(a) as unpatentable over Lee in view of Suzuki (U.S. 6,791,946). Claim 5 is rejected under 35 U.S.C. § 103(a) as unpatentable over Lee in view of Suzuki, and further in view of Baiyor (U.S. 6,282,429). Claim 6 is rejected under 35 U.S.C. § 103(a) as unpatentable over Lee in view of Douglis (U.S. 6,487,596). And Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Douglis, and further in view of Jennings (U.S. 6,597,774). And claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as unpatentable over Douglis.

With respect to independent claim 1 recites in part that a managing communication device which releases an older tunnel to prevent the number of tunnels from exceeding a predetermined threshold. In making the rejection, the office action relies on Lee at col. 6, lines 2-5. As part of this, the Examiner has alleged that in Lee the "threshold" is 1. (Office action page. 3 at line 10.) However, as has been previously argued, during processing and until the handoff procedure is complete there are in fact two tunnels. Indeed, the relied upon portion of the reference states "multi-route tunneling preferably continues as long as necessary to ensure the handoff procedure has completed." During this period then, given the Examiner's example, there are in fact two tunnels. Which would exceed the threshold (1) alleged by the Examiner, at least for that period for that period of time until the handoff were complete. But such a scenario, where the number of tunnels exceeds the threshold, is expressly forbidden by the terms of the

instant claims. To further clarify the distinction, claim 1 has been amended to further recite that there exist a plurality of tunnels, thus clarifying that the threshold is a value greater than 1. Accordingly, claim 1 patentably distinguishes over the relied upon portions of Lee and is allowable. Further, it is submitted that for similar reasons independent claim 4, as amended is also allowable.

As regards claim 6, it is submitted that the relied upon portion of Douglis, namely col. 4, limes 25-31 refer to the alteration of time-out policy based upon load. It is respectfully submitted that load and number of tunnels are not synonymous. Though an increase in tunnels may include an increase in load, this is not necessarily the case, and indeed, load refers generally to volume of data and not to the number of inputs for data (tunnels) as recited in claim 6. Accordingly, claim 6 distinguishes over the relied upon portion of the references and is allowable.

With respect to claims 8 and 9 and new claims 10 and 11, it is submitted that claim 8 has been amended to recite:

> a tunnel number managing unit operable to manage a number of
> tunnels for a mobile tunnel and to decrease the number of tunnels
> presently established upon timeout of a lifetime of a tunnel or
> release of a tunnel and to increase the number of tunnels presently
> established upon addition of a new tunnel

In contrast the relied upon portions of Douglis fail to teach the management of a number of tunnels for a mobile terminal.

Claim 8 also recites

> a controller operable to release a tunnel presently established
> before timeout of a lifetime of the tunnel in case of a value of the
> number of tunnels which is managed for the mobile terminal by the
> tunnel number managing unit plus a number of tunnels to be
> added exceeds a predetermined threshold

Whereas Douglis fails to teach determining whether or not a total number of tunnels for a mobile terminal exceeds a predetermined threshold.

Further, Douglis fails to teach or suggest release a tunnel before timeout of a lifetime of the tunnel under the conditions "tunnel in case a value of the number of tunnels which is managed for the mobile terminal plus a number of tunnels to be added exceeds a predetermined threshold," as recited in claim 9.

Similar distinctions over the relied upon portions of the cited references are also found in new claims 10 and 11.

Accordingly, it is submitted that claims 1, 4, 6, and 8-11 patentably distinguish over the relied upon portions of the cited references and are allowable. Claims 2, 3, 5, and 7 which depend from one of these claims are allowable therewith.

For at least the foregoing reasons it is submitted that claims 1-11 patentably distinguish over the relied upon portions of the cited references and are allowable.

Conclusion

In view of the remarks and amendments set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

_/Nathan Weber/_____
Nathan Weber
Reg. No. 50,958

CUSTOMER NUMBER 026304
Telephone: (212) 940-8800
Fax: (212) 940-8986 or 8987
Docket No.: FUJZ 19.021 (100794-11761)